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***IN THE UNITED STATES PATENT AND TRADEMARK OFFICE***

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In re application of: Visco et al.

Attorney Docket No.: PLUSP038

Application No.: 10/825,587

Examiner: G. Cantelmo

Filed: April 14, 2004

Group: 1795

Title: ACTIVE METAL FUEL CELLS

Confirmation No.: 8178

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**CERTIFICATE OF EFS-WEB TRANSMISSION**

I hereby certify that this correspondence is being transmitted electronically through EFS-WEB to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on November 4, 2008.

Signed: /dn/  
Deborah Neill

**TERMINAL DISCLAIMER UNDER 37 C.F.R. § 1.321  
TO OBVIATE A PROVISIONAL OBVIOUSNESS-TYPE  
DOUBLE PATENTING REJECTION**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

The owner, PolyPlus Battery Company, of the entire interest in the above-identified application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the above-identified application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. §§ 154 to 156, and § 173 of any patent granted on Second Application No. 10/772,157, filed on February 3, 2004, as shortened by any terminal disclaimer filed prior to its grant. The owner hereby agrees that any patent so granted on the above-identified application shall be enforceable only for and during such period that it and any patent granted on the Second Application are commonly owned. This agreement runs with any patent granted on the above-identified application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the above-identified application that would extend to the expiration date of the full

statutory term as defined in 35 U.S.C. §§ 154 to 156 and § 173 of any patent granted on the Second Application, as shortened by any terminal disclaimer filed prior to its grant, in the event that any such granted patent later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR § 1.321, has all claims canceled by a reexamination certificate, is reissued or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

The undersigned is an agent or attorney of record.

The Commissioner is authorized to charge the amount of \$70 to cover the disclaimer fee for a Small Entity to Deposit Account No. 504480 (Order No. PLUSP038). If additional fees are required to facilitate filing of this paper, please charge such fees or credit any overpayment to Deposit Account No. 504480 (Order No. PLUSP038).

Respectfully submitted,

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/jea/

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